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IN THE

Supreme Court of the United States

October Term, 1996

STATE OF WASHINGTON, et al.,
Petitioners,

v.

HAROLD GLUCKSBERG, M.D., et al.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

DENNIS C. VACCO, et al.,
Petitioners,

v.

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BRIEF AMICUS CURIAE OF SURVIVING
FAMILY MEMBERS IN SUPPORT OF
PHYSICIAN-ASSISTED DYING

- IN SUPPORT OF RESPONDENTS -

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I. STATEMENT OF AMICUS CURIAE.

The amicus curiae is composed of fifteen distinct individuals--not an organization, a religious group, or a group of politicians. The amicus consists of one family member of an individual who experienced the positive aspects of physician-assisted dying and fourteen family members of individuals who experienced unnecessarily painful, traumatic deaths in the absence of physician-assisted dying. They submit this Brief in support of Respondents.¹ The family members² are the voices of their deceased loved ones, describing for the Court the differing realities of what happens to families when a competent, terminally ill person is granted or forbidden the choice of a hastened death. The individual experiences present the Court with the emotional resonance of dying with and without physician assistance to hasten the process. In each case, the dying person desperately wanted to hasten death--some were successful with plastic bags, some chose guns, some died slowly but naturally, in agony and without dignity, and one died when and how he wanted, under medical care, peacefully, with loved ones present. The perspective of persons who have had recent experience with this issue is relevant and necessary to the Court's proper and full consideration.

Declarations of the fifteen family members are attached hereto as Appendices 1-15.³ The group includes a woman whose husband, dying of lung cancer, obtained medication from his physician and was able to have a peaceful and gentle death--with his wife, daughter, nurse and trained Compassion In

¹The parties have consented to the filing of this Brief and the letters of consent are on file with the Clerk of this Court.

²The term "family member" includes spouses, children, parents, and partners involved in a close personal relationship.

³Originals of the declarations are either on file in the Ninth Circuit case below or in the office of the counsel of record herein.

Dying volunteers at his bedside (App. 1). In juxtaposition, the remainder of the group includes:

- a widow whose husband of 25 years was compelled to shoot himself in their front yard in order to end his debilitating pain (App. 2);
- a daughter whose mother was wasted by cancer to a mere 60 pounds before she swallowed morphine (App. 3);
- a widow who helped her husband prepare the sleeping pills he would take to avoid the devastating terminal stages of esophageal cancer (App. 4);
- a husband whose wife of 49 years had to die alone with a plastic bag over her head rather than face the unbearable pain caused by a heart condition (App. 5);
- a mother who struggled to medically assist her 26 year old daughter to die, because a doctor's help was not available (App. 6);
- the partner of a man who, dying of AIDS, withheld his own insulin to hasten his death, dying with convulsions, dementia, violent outbreaks, and a total loss of dignity (App. 7);
- a daughter whose family had to clean her father's splattered brains off the basement walls after he shot himself with his 12-gauge shotgun to avoid the excruciating pain caused by lung cancer (App. 8);
- a daughter whose father lay dying, diapered, moaning in pain and begging to die while the

doctor refused morphine because it could kill him (App. 9);

- a widow devastated by watching her husband of 47 years live two months longer than he wished, slowly dying of cancer (App. 10);
- a man whose surrogate son failed in his suicide attempt and ended up in a coma (App. 11);
- a partner who was charged with murder and assisted suicide because he was present when his partner, dying of AIDS, took pills and sat in his car to ingest carbon monoxide (App. 12);
- a son who was criminally prosecuted for helping his 88 year old father, dying of cancer, hold a plastic bag over his head (App. 13);
- a man whose partner, dying of AIDS, destroyed his last few weeks of life agonizing about how to commit suicide (App. 14); and
- a daughter who had to leave her father to die alone so she would not be implicated in his death (App. 15).

The fifteen are among a significant number of Americans who have witnessed loved ones die in pain and agony, against their wishes and in an affront to their beliefs and personhood--denied the legal right to medical assistance to end unbearable suffering and hasten inevitable death.⁴ They give

⁴Various sources recount experiences of hundreds of Americans similar to the experiences of the fifteen representative family members. M. Battin, The Least Worst Death (1994); G. Burnell, Final Choices: To Live or to Die in an Age of Medical Technology (1993); C. Farnsworth, Vancouver AIDS Suicides Botched, N.Y. Times, June 14, 1994 at C12; S. Jamison, Final Acts of Love

their names and sacrifice their privacy and that of their family to preserve their liberty and the liberty of others who are terminally ill and wish to die with dignity. With the combined personal experiences of this group, the amicus has a profound interest in this litigation.⁵

II. SUMMARY OF ARGUMENT.

The amicus urges this Court to affirm the en banc decision of the Ninth Circuit Court of Appeals, Compassion in Dying v. State of Washington, 79 F.3d 790 (9th Cir. 1996), and the decision of the Second Circuit Court of Appeals, Quill v. Vacco, 80 F.3d 716 (2d Cir. 1996) finding unconstitutional Washington and New York statutes which make it a crime for a physician to knowingly aid another person in committing suicide as applied to the care of a competent, terminally ill patient.

(1995); G. Kolata, AIDS Patients Seek Solace in Suicide But Many Risk Added Pain in Failure, N.Y. Times, June 14, 1994 at C1; S. Nuland, How We Die: Reflections on Life's Final Chapter (1994); T. Quill, Death and Dignity: Making Choices and Taking Charge (1993); T. Quill, A Midwife Through the Dying Process (1996); J. Rachels, The End of Life (1986); B. Rollin, Last Wish (1985); L. Shavelson, A Chosen Death: The Dying Confront Assisted Suicide (1995); P. Singer, Rethinking Life and Death (1994); A. Solomon, A Death of One's Own, The New Yorker, May 22, 1995 at 54.

⁵Statements to the Court similar to those filed herein are not without precedent. In Webster v. Reproductive Health Services, 492 U.S. 490, 106 L. Ed. 2d 410, 109 S. Ct. 3040 (1989), an amicus brief filed with and considered by this Court, entitled "Women Who Have Had Abortions, et al.," included declarations by numerous women who had experienced legal and illegal abortions. As in Webster, the declarations filed here contain relevant first-hand information by persons intimately familiar with the issues on appeal. It should be noted that Petitioner State of Washington's Brief cites newspaper accounts of stories of people dealing with this issue. Washington Petitioner's Br. at 16-17.

The experience of one of the fifteen survivors--recounting the positive aspects of having a physician and other medical personnel assist in a hastened death--demonstrates why the choice to seek physician assistance is a liberty interest protected by the Due Process Clause of the Fourteenth Amendment. This one experience evidences the profoundly personal, intimate, and important nature of this decision, central to personal dignity and autonomy.

The experiences of the remaining fourteen survivors exemplify how the state laws prohibiting physicians from prescribing medication to hasten death burden the liberty interest of competent, dying patients. The Ninth Circuit decision below correctly recognized that the extent of the burden on liberty was one of several relevant factors in determining whether the challenged law violates an individual's substantive due process rights. Compassion in Dying, 79 F.3d at 816. The individual experience of each of the fourteen surviving family members presents one or more of the following ways in which the current laws constitute an undue burden:

- The current laws result in untold pain, agony, and suffering for some dying patients who would prefer death; a slow, debilitating death is often accompanied by a profound loss of dignity and self-respect.
- The current laws cause some patients to choose a violent, often gruesome manner of hastening death; these suicides are generally committed alone, without family present.
- The current laws result in the failure of some attempts to hasten death, due to the absence of trained medical care--sometimes leaving the patient in worse condition than before the attempt.
- The current laws result in some family members feeling compelled to assist their loved ones to hasten

death, with concomitant fear and hiding, guilt, and occasional criminal investigation and prosecution.

- The current laws result in suffering, guilt, anger, and remorse for some surviving family members.

Additionally, to deny medical assistance at a time of such need is to deny some terminally ill people equal protection of the law under the Fourteenth Amendment. To permit physicians to remove life support systems or to refrain from taking life sustaining measures, thereby hastening death, provides those terminally ill patients with a choice to die with dignity, a choice denied other terminally ill patients who cannot obtain medical assistance to hasten death.

III. THE CONSTITUTION PROTECTS INTIMATE, PERSONAL, AND IMPORTANT DECISIONS INCLUDING THE CHOICE OF PHYSICIAN ASSISTANCE TO HASTEN DEATH FOR A TERMINALLY ILL, COMPETENT ADULT.

A competent, terminally ill patient has a liberty interest in determining the time and manner of his or her death. Planned Parenthood v. Casey, 505 U.S. 833, 851 (1992); Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261, 281 (1990). In Casey, this Court recognized that certain matters "involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment." Casey, 505 U.S. at 851. As the Ninth Circuit court below added:

A competent terminally ill adult, having lived nearly the full measure of his life, has a strong liberty interest in choosing a dignified and humane death rather than being reduced at the end of his existence to a childlike state of helplessness, diapered, sedated, incontinent. How a person dies not only determines the nature of the final

period of his existence, but in many cases, the enduring memories held by those who love him.

Compassion in Dying, 79 F.3d at 814.

For Richard Lau, the decision he made to choose physician assistance in dying during the last weeks of his life exemplifies the intimate, personal, and important nature of this decision.⁶ For Roberta Lau, his widow, his decision positively affected the "enduring memory" she had of her husband's demise. Her statement reflects the dignity and peace that can accompany a physician-assisted death:⁷

⁶Providing the means and ability to hasten death for the terminally ill can also provide a feeling of control over one's life and peace of mind, even if the physician prescribed medication is never used. Richard Posner, Age and Old Age 243-53 (1995). Moreover, having a physician involved in this important decision-making process can sometimes reverse a patient's decision to end his or her life. Under current state laws patients "... cannot make use of the professional help their doctors, psychologists, psychiatrists, or other counselors have to offer in exploring choices of suicide and which might provide them with very real help. As a result, some older, disabled, or dying persons commit suicide when they do not really wish to do so..." Margaret Pabst Battin, The Least Worst Death 272 (1994). "Our public policy should encourage doctors to be creative and openly responsive, rather than fearful and secretive, when patients are faced with a bad death." Timothy E. Quill, M.D., A Midwife Through the Dying Process 26 (1996).

⁷See Peter Singer, Rethinking Life and Death 148 (1994) for how a planned, hastened death in the Netherlands, where physician-assisted dying for the competent terminally ill is legal, can be even more dignified, since it is legal. The author describes the planned death of Carla: "She had the best possible medical attention, right up to the moment of death. Her family could be with her, and even her priest. Nothing had to be furtive. There was no need to fear failure. No-one had to lie awake afterwards wondering if the police would knock."

My husband of 42 years, Richard A. Lau, died on October 12, 1995. My husband's desire and intent always was to find the means to hasten his own death when his physical condition was no longer bearable. He died after taking a sufficient supply of drugs prescribed by a physician that took a long search and numerous inquiries to locate.

Richard had been battling lung cancer for two years before he died. ...

Approximately three weeks prior to Richard's death, he was examined by an independent physician, not his treating physician. This physician verified that Richard was mentally competent, not depressed, and fully aware of the consequence of his decisions. The physician determined that Richard's condition was terminal and that he had no more than one to two months to live. ...

Richard decided that he wished to die on Thursday, October 12, 1995. A nurse, my adult daughter, and two trained volunteers from Compassion in Dying were present with him. Everyone checked with Richard to see if he had changed his decision. He was clear and adamant in his determination to proceed.

Richard was helped with personal care matters, smoked a cigarette and visited with those present. He then personally took the medications. He was very relaxed and at peace and thankfully welcomed his liberation. He always worried so much about finding this assistance and it was a blessing when we did. We did not believe in prolonging suffering needlessly.

At the end, his death at home was very calm and peaceful. I supported him all the way.

I believe all terminal and suffering persons should be able to legally seek supervised and regulated assistance

in dying, if that is their wish. Prolonging suffering needlessly is inhumane.

Appendix 1.

IV. DENIAL OF THE CHOICE OF PHYSICIAN ASSISTANCE TO HASTEN DEATH FOR COMPETENT, TERMINALLY ILL ADULT PATIENTS IMPERMISSIBLY INFRINGES UPON THE LIBERTY INTEREST OF THE PATIENTS.

State regulations may not impose an undue burden on recognized liberty interests. *Casey*, 505 U.S. at 873. The majority of the declarations show that the Washington and New York statutes, in prohibiting physicians from prescribing medication to end life, do impose an undue burden and thereby impermissibly infringe upon the liberty interests of competent, terminally ill patients.

A. Terminally Ill Patients Denied the Choice of Physician-Assisted Dying May Be Forced to Endure Horrific Pain and Suffering and Loss of Dignity.

All of the family members witnessed the intense suffering of their loved ones in the weeks or months before their inevitable deaths. The statements dispel the myth that pills can always control all pain.⁸ Moreover, doctors sometimes refused to prescribe sufficient pain-killing medication because of their

⁸Despite new advances in pain treatment, an "irreducible core of patients are trapped in physical agony (if they are awake)." Kreimer, 44 Am. U.L. Rev. at 831, n.93. Pain cannot be controlled in 5% to 10% of cases. The New York State Task Force on Life and the Law, *When Death is Sought: Assisted Suicide and Euthanasia in the Medical Context* 40, n.18 (1994). Often, controlling pain sacrifices the patient's consciousness, which "is tantamount to causing death; the patient has no further conscious experience and thus can achieve no goods, experience no significant communication, satisfy no goals." M.P. Battin, *supra*, at 105.

fear that it would be used to hasten death.⁹ Thus, laws barring physician-assisted dying contribute to suffering by causing some doctors to withhold medication. Additionally, as family members attest, a slow, deteriorating death often leads to loss of dignity and self-respect for the dying person.¹⁰

Dorothy Hoogstraat witnessed her husband's horrible suffering, which medication could not ease:

My husband, Emerson E. Hoogstraat, a retired Professor of Finance, from Portland State University, died on March 25, 1995 of prostate cancer that had spread to the bones. . . .

He was relatively comfortable until June of 1994 when a series of new problems developed. Following further diagnostic procedures it was ascertained that the cancer had spread to his ribs, spine and right femur. He was in considerable pain when walking, sitting or lying in bed. . . . His ribs gradually broke, and as he said to me many times, he could feel the broken edges of the bones rub together as he would sit or attempt to arise from the bed. He was in unbearable pain. He was an extremely intelligent, courageous and dignified man and he did not wish to suffer unbearable pain when there was no hope of recovery from this condition. He would very much like to have gone to sleep in his own bed and not had to suffer further. He felt that it was his right to say when he had suffered enough. He "lived" at least two months after he would have preferred not to. The physicians and Hospice people were constantly changing medications and attempting to make him as comfortable as possible-- which in his condition was an

⁹T. Quill, *supra*, at 197 ("Often, doctors undermedicate dying patients' pain or shortness of breath because of the legal risks [both exaggerated and real] associated with overmedicating.").

¹⁰See Sherwin B. Nuland, *How We Die, Reflections on Life's Final Chapter* 142 (1995).

impossibility. It was a twenty-four hour a day caregiving situation and he still suffered unbearably. He remained at home until his death. . . .

We had been married for forty-seven years and shared a lifetime together, and truly, watching him suffer and being unable to do anything for him that would relieve his pain was for me devastating.

I do not believe that God intended for people to suffer in this manner. We are more compassionate with our pets than we are with our dearly loved family members.

Appendix 10.

Gail Bereny speaks of the unwillingness of her father's physician to prescribe adequate pain medication:

Several years ago, my 80 year old father was diagnosed as having terminal abdominal cancer. He went to his doctor with two requests, (1) not to prolong things, and, (2) to keep him as pain free as possible. His doctor agreed. However when time came, the doctor did neither. And so my father, to whom dignity was very important, lay dying, diapered, moaning in pain, begging to die. I called the doctor's office, crying, begging him to relieve Dad's pain. He refused, saying morphine could kill him. . . .

I felt very guilty then, and feel guilty now, about Dad's terrible death. I feel guilty that he died in so much pain and with no dignity left. The doctor had the means to give him a gentle, painless death. I have been left with frustration, anger, regret, and sadness. He had been a very good father.

Appendix 9.

B. Terminally Ill Patients Denied the Option of Physician-Assisted Dying Are Sometimes Forced to Experience a Violent, Lonely, at Times Gruesome Death.

In a number of cases, the terminally ill chose violent deaths rather than continued suffering.¹¹ They died completely alone, without the comfort of their families. Their violent deaths often resulted in gruesome and tragic consequences for family left to deal with the remains.

Tania Bloom describes the brutal experience of her elderly father's suicide:

In 1989, my father was dying of lung cancer and was in excruciating pain. His doctor would not provide pain medication other than Tylenol saying that to do so "would not be medically advisable." Father remained at home and in spite of being hooked up to oxygen, he struggled to breathe. We had access to morphine and hinted to him that we could get it for him if he wanted it. However, he refused because he knew it was illegal to assist in a suicide.

When he realized that my family was going to be away for a day, he wrote us a beautiful letter, went down to his basement, and shot himself with his 12-gauge shotgun. He was 84. . . .

This was a brutal and awful experience for my children and for me. I felt a great deal of loss, anger, and remorse about a system that would not allow my father to die gracefully and with dignity.

¹¹The Ninth Circuit court below cites the example of how one of the patients of physician plaintiff Dr. Harold Glucksberg ended his life by jumping from a bridge in Seattle after Dr. Glucksberg could not legally prescribe medication to hasten his patient's AIDS-related dying. Compassion in Dying, 79 F.3d at 834.

My son-in-law then had the unfortunate and unpleasant task of cleaning my father's splattered brains off the basement walls.

Physician assisted suicide should be a rational choice and a reassurance for people. Physician assisted suicide can have safeguards and planning so that it wouldn't be an impulsive, irrational act and one of unnecessary violence such as that of my Dad's.

Appendix 6.

Patsy McGeorge's husband also felt compelled to end his life with a gun:

My husband of twenty-five years, Emanuel J. ("Mac") McGeorge, had terminal cancer involving the spine, lungs and lymphatic system. But terminal cancer is cited only as "other significant condition" to his cause of death on the death certificate. The certificate reads: "Death due to or as a consequence of: Massive trauma to head -- self-inflicted [sic] gun shot wound-shotgun." ...

During late spring of 1995, he broached the subject of suicide. It was not the first time suicide had been mentioned, but this time he was quite serious. He told me of his great concern for becoming incapacitated, or so ill that he would either be hospitalized or would not, for some other reason, be able to govern his own destiny. He was relieved to have my assurance that he would never be hospitalized against his wishes, and that I would respect and support any decision he made about ending his own life. Mac also brought up the possibility of assisted suicide with his doctor, but while his doctor was understanding, he was not supportive.

By October, Mac had already surpassed his predicted nine-month life expectancy, but the cancer was taking its toll. He had gone from a man of 190 pounds of muscle, exceptional strength, and superior stamina to a "145 pound weakling." ... By January of 1996, he was able to eat very little; his weight loss was becoming extreme. The principal spinal tumor had grown so large that he

referred to his appearance as that of the "Hunchback of Notre Dame." He could only sleep on his side, and despite 800 mg. of morphine a day and Roxicet every two hours, his pain was so extreme that sleep came only in short intervals. He could lie down for only an hour or two at a time. He struggled through January, but by the first of February, he couldn't take much more. We were referred to Hospice, an outstanding group that does a great deal to ease the pain and suffering of the terminally ill, but regrettably cannot assist in ending that suffering. With a subcutaneous pump to assure a continuous morphine flow and additional medication, Hospice nurses were able to provide Mac his first full night's sleep in months. But Mac did not want to be a drugged vegetable. Following an almost 24 hour drugged stupor, he decided that was not the answer.

On the morning of February 9, 1996, he had made up his mind. ... After a brief and very personal conversation, he gave me the note he had carried for months, attesting to the fact that his decision was his own; kissed me goodbye; went into the front yard, put a shotgun in his mouth and pulled the trigger. Since a peaceful death was not available, this was his way to insure death with the dignity he valued so highly. Two months ago I was emotionally wrenched by finding a portion of his upper dental plate 50 feet from the site of his death -- a testament to the violent alternative he was forced to choose.

Mac was not depressed -- the overwhelming pain or alternative of a drug stupor were simply unacceptable to him. Mac honestly believed he, with my support, had the right and the responsibility to control his own destiny.

To say that I miss him would be the understatement of the century. But I esteem his courage, his conviction, and his integrity. I am thankful that he loved me enough to share his most personal emotions. I wish I could have been with him at the end, but he said no, "it will be messy."

Appendix 2.

Jinny Tesik attests to the loneliness involved when family members choose suicide, not wanting to legally implicate those left behind:

Unable to live alone due to his own battle with emphysema, Dad lived with me for the last two years of his life. He was adamant that he would not let his disease control him the way his wife's lung cancer controlled her. He intended to take his life while he still had his dignity, self-respect, and, above all, was still in control of his life. He made me promise that I would honor his choice. He threatened that if the means for him to take control of his death were not available, he would kill himself with a kitchen knife.

The emphysema progressed. Dad was tethered to 30 feet of oxygen tubing; he seldom left his bedroom. Breathing became more difficult and eating became a problem. His physician was totally opposed to providing the help Dad requested. One morning, he reminded me of my promise to help him. He discussed his plan rationally, non-emotionally. He was ready to die and needed my support. We raided the medicine cabinet and I was sent out to buy some vodka. We spent the day together. Toward evening, he asked me to leave the house and not return until very late. He did not want me to be implicated in any way in his suicide. Saying goodbye to my dad was one of the saddest times of my life. And I had to go through that long night alone for I, in turn, could not implicate anyone else in the knowledge of my dad's death. He died in 1990 at the age of 76.

Appendix 15.

C. Terminally Ill Patients Denied the Option of Physician-Assisted Dying May Be Forced to Rely on Family Members to Assist in Hastening Death.

Some of the fifteen deceased could or would not violently end their life with a bullet to the head. Nevertheless, they were determined to control the timing of their death and felt compelled to rely on the assistance of family.¹² This alternative brings other problems. The dying person has to worry about legal implications for survivors. Family members must engage in a conspiracy of silence to hide their involvement--at a time when they are grieving.¹³ For some, criminal investigation and even prosecution for assisted suicide does result. Clearly, having untrained, emotionally involved family members assist in hastening death without medical supervision is not the most desirable alternative.¹⁴

Kay Beck, a retired school counselor, describes her involvement in her husband's death:

¹²The Ninth Circuit court below recognized that an additional burden was that "[T]hose who decline to assist may always wonder whether they should have tried to save their parent or mate from enduring, unnecessary and protracted agony." Compassion in Dying, 79 F.3d at 836.

¹³Stephen Jamison, Ph.D., Final Acts of Love: Families, Friends, and Assisted Dying 169 (1995) ("Until the laws change, secrecy will remain one of the most dominant features of assisted death.").

¹⁴Ibid. 5 ("This illegal assistance ... goes on without guidelines, safeguards, psychological counseling or evaluations, required consultation with specialists, referrals to hospice, or even mandatory discussion of alternatives."). Moreover, sometimes family members are not those assisting. "In the absence of legally available aid from physicians, abuses are occurring at the hands of unregulated freelance euthanasists, illegal suppliers meeting an otherwise unmet demand." Lonny Shavelson, A Chosen Death: The Dying Confront Assisted Suicide 67 (1995).

On Nov. 11, 1991, I helped my husband, Jack, end his life. In the terminal stages of esophogical [sic] cancer, he faced paralysis within days. Paralysis for Jack was a fate worse than death. Always an extremely active, rational, self reliant, responsible person, he fought for his life as long as he could. When it became apparent the end was near our plan was that he would end his life with sleeping pills, as difficult and isolating as that proved to be. On the 10th of November he wrote his suicide note and we prepared the drugs. Jack died the next morning of a drug overdose in the room he loved with me but not our children by his side.

The effect of the law against assisted suicide is to create a conspiracy of silence around the terminally ill at their time of ultimate loss and greatest need. It causes isolation, anguish, desperate acts, and prolonged suffering. I do not wish to go to jail but who is to speak for those who have died alone or those who fear prosecution if I do not.

To classify me as a criminal because I refused to leave my husband's side at his time of greatest loss I find unconscionable. The law against assisted suicide is a travesty, a violation of my rights as an adult. The judicial system must find this law unconstitutional or be prepared to put people like me in jail.

Appendix 4.

Patty Rosen had the unthinkable task of helping her daughter hasten her death:

The person dying was my 25 year old daughter and she asked me to help her die, and I did. I didn't have to assist Jody's death. Jody was still capable of giving herself a fatal dose of medication. But Jody didn't want to die alone. She wanted me there with her, to comfort her, and to make sure she died.

Bone cancer. Invasive bone cancer. Literally, from her head to her toes she was filled with bone cancer. ... Bedridden, Jody was trapped in a body that barely

worked. She slept, medicated, 23 out of 24 hours. Even then her face reflected the pain she was constantly enduring. She was also losing her sight, tolerated painful procedures for total bowel obstruction, and shuddered with pain if anyone so much as touched her skin because of the tumors that were barely under the surface. And, her bones. Bones that were slowly "burning" ("it feels like hot molten lava inside of me") away with cancer. Daily she let me feel her despair. Daily, her eyes dulled by medication, the question would come: "Mom, how long can you watch me suffer?" "Mom, please help me." ...

... She was dying, she knew it, and she was ready to die now. Rational, calm, ready. However, it was illegal for me to assist and she knew it. "I should be able to talk with my doctor and plan this, not ask my Mom" "Mom, what if you go to prison?" "What will happen to you?" Worry made her small face with the sunken eyes of the near death take on an incredibly distressed look. Wasn't it enough that she was dying without having to worry about me? ...

Finally, four months after her request, choking on my tears, I said, "Jody, I'm ready." A look of relief came over her face. She was, in fact, almost giddy with relief. Quietly, softly she said, "Oh Mom, thank you. This is one of the happiest days for me. I don't have to wake up in this body again." ...

And then it was time. Jody calmly swallowed everything I could give her, took a few sips of water, kissed me, "See you later Mom," closed her eyes and went to sleep. I went into a pure panic. What if I failed? What if she regained consciousness? She would be even worse off. But more than that, I would have failed her. I began giving her all the I.V. medications I could pump into her stilled body. I moaned, sobbed, prayed, and kept pushing the drugs. I was as desperate as I have ever been. ...

Ten hours after we had started the process came the silence. She had finally stopped breathing. The year

and a half of pain, suffering, rage, and hopelessness had ended. I climbed into her bed, gathered her still body into my arms, finally able to hold her without hurting her. Stroking her hair, rocking her gently, I surrendered to my grief. A brave and wise young woman, Jody Lynn Grape, age 26, died October 30th, 1986, at 1:30 p.m.

I have never felt guilt or remorse for assisting Jody's passing. It was the ultimate act of love a mother could do for her suffering, dying child. I am grateful she trusted me enough to ask, made me feel her anguish, and included me in her dying. ...

Appendix 6.

Elvin Sinnard describes his wife's death and her worry about Elvin's involvement, even as she was on the brink of death:

Sara and I were married for 49 years. She suffered from a very painful heart condition the last eleven years of her life. Two open heart surgeries, several trips across the United States to specialty clinics, and very competent care from her cardiologist failed to relieve the debilitating pain. Finally life became unbearable. She could not even talk to me, her children, or her friends for five minutes without triggering the terrible pain. She wanted to die but we did not know how to do it. We could not ask her doctors since one practiced in a Catholic hospital and the other had a national reputation that would have been destroyed had he broken the law to help her.

She feared over-the-counter pills, hearing of all the cases where the person woke up a vegetable. Carbon monoxide was out since she wanted the dignity of dying in her own bed, surrounded by the things she loved. We finally learned of the plastic bag method. On the day of her decision, I was with her up to the point of placing the bag over her head and she said, "Elvin, you must

now go to the office because you cannot be implicated in this."

She had to die alone. I was denied my right to be with her when she died. This is not right.

I was taken to the police headquarters and interrogated for two hours attempting to establish a direct action on my part to the suicide. The detectives were polite and seemed sympathetic but they said, "Even though we might agree with your action, we would have to recommend indictment if we could establish a direct action on your part to the suicide. It's the law."

And, this is not right. My act was a loving act, not a criminal act.

A person has the right to control the conditions of their death as much as they have the right to control the conditions of their living.

Appendix 2.

William Meyer details his prosecution for helping his 88 year old father end his life:

In 1991, my father, William F. Meyer Jr., who was 88 years old and had experienced five cancer operations, was in rapidly failing health. The cancer that had begun in his colon had spread to his lungs. He was losing weight and was being eaten away. His doctor said he only had a few months to live. ...

After my father and I met with my father's doctor of 25 years, my father decided he would use the procedure featured in the book Final Exit, taking 12 sleeping pills and placing a plastic bag over his head.

My father's first attempt at this action failed when his reflex action, which comes from the feeling of suffocating, caused him to pull off the plastic bag. When I returned to my father's home the next morning, he was awake and distressed that he was still alive.

My father consulted with his doctor and was advised that I could hold my father's hands so the reflex action

would not remove the plastic bag. My father and I followed this procedure and he was able to end his life.

Since one of my father's last requests was that I tell his story, I joined the Hemlock Society and became a vocal spokesman for death with dignity. In the summer of 1994, I was interviewed for a story by Connecticut Magazine. After the story, I was arrested and charged by the police with second degree manslaughter. If convicted, I faced ten years in prison.

At a hearing in December, 1994, before a Superior Court judge in Hartford, Connecticut, two ministers and several friends spoke on my behalf. Numerous people, including eleven ministers and eighteen doctors, wrote to the judge to support me. Even though the District Attorney pleaded that my case go to trial, the judge stated that although I had broken the law, I was following my father's wishes, and the judge considered me an outstanding citizen. I was given two years "accelerated rehabilitation" (after two years, all charges are dropped, with no record)....

Appendix 13.

Keith Green describes the horror of being charged with murder and assisted suicide after his long term partner died:

I was arrested on December 4, 1995 in West Los Angeles after my lover of eight years committed suicide. Within hours of the arrest, I was charged with murder under California Penal Code section 187 and felony assisted suicide under California Penal Code section 401.

...

In 1991, my lover tested positive for the human immunodeficiency virus ("HIV") and was diagnosed with full blown AIDS in early 1994. He was in the advanced final stages of the disease at the time of his demise. With his immune system entirely compromised he suffered from a panoply of debilitating diseases which were incurable....

On Monday, December 4, 1995, he told me that this would be our last morning together. He went into the bathroom where he remained for a considerable period of time. I learned afterwards that he had been taking a large and lethal quantity of chlorhydrate [sic] and seconal. Because his prior attempt at suicide by pills had failed, he had planned to use carbon monoxide as a back up.

After a tearful goodbye, he went to the garage where he had set up his car with tubing so as to facilitate the ingestion of carbon monoxide. Once seated in the driver's side of his car, he told me that it was time for me to leave....

I returned to our home within five to ten minutes of leaving. I went to the garage which was then filled with smoke and stayed with him in the car ...

After having been prosecuted for a felony for six months, the charges were finally dismissed on June 4, 1996. Though released on my own recognizance within a few days of having been arrested, the terms and conditions of my release precluded me from being at his funeral in his home town of Longview, Texas as I was not allowed to leave California....

In the end, the charges that were filed against me were the last thing that he would have ever wanted to happen.

Appendix 12.

D. Terminally Ill Patients Denied the Option of Physician-Assisted Dying Sometimes Fail in Their Attempts to Hasten Death, with Tragic Results.

Perhaps the worst result for a terminally ill competent adult who attempts suicide--worse than a violent suicide, or a lonely suicide, or a suicide implicating family members--is a suicide that fails, leaving the patient worse off than before. The denial of medical assistance inevitably increases the chance of a botched hastened death. Patients cannot know the type or dosage of medication to take or how to control nausea and

regurgitation accompanying the ingestion of lethal medication.¹⁵ As the Ninth Circuit decision stated, "Miscalculation can be tragic."¹⁶ The consequence can be brain damage or a coma.¹⁷

For Gösta Pearson, his surrogate son, dying of AIDS, failed in his attempt to hasten death which brought tragic consequences.

On June 20, 1991, Hugo told me that he had decided to take his own life with some pills he had stockpiled. He told me I did not have to stay with him, but I wanted to be by his side. He prepared two glasses of

¹⁵L. Shavelson, *supra*, at 126 ("From safer sleeping pills to air bags in cars, science has made killing yourself without professional help a tremendously difficult task--and a mission fraught with the potential for ghastly errors.")

¹⁶*Compassion in Dying*, 79 F.3d at 832. Additionally, the Second Circuit quoted from one of the declarants in that case, *Quill v. Vacco*, 80 F.3d at 721:

It is not uncommon, in light of present legal constraints on physician assistance, that patients seeking to hasten their deaths try to do so without medical advice.... Very often, patients who survive a failed suicide attempt find themselves in worse condition than before the attempt. Brain damage, for example, is one result of failed suicide attempts.

¹⁷See C. Farnsworth, *Vancouver AIDS Suicides Botched*, N.Y. Times, June 14, 1994, at C12 (of 34 assisted suicides studied in Vancouver, B.C. [which, similar to the U.S., bans physician assisted suicide], half were "botched, increasing suffering when the aim was to alleviate it."); Andrew Solomon, *A Death of One's Own*, The New Yorker, May 22, 1995, at 57 ("I heard of suicides as gruelling as the diseases they were meant to terminate. In some cases, irreplaceable pills were regurgitated. "My husband had to just eat his vomit," one woman said. "He was that determined. But then he threw up again. We waited about an hour; then he downed it all again and I put a plastic bag over his head so he would suffocate before he got sick, and he finally died. He'd been through so much, and that whole disgusting, humiliating business was the living end.").

medication and told me he was going to drink one glass and then follow with the other. He then drank all of one of the glasses. He then told me that "that didn't taste very good--will you get me a spoon of pudding from the kitchen". I did and he said "that's better." Then he reached for the second glass and passed out before taking the second glass of medication.

Hugo was in a coma for the next several days. I immediately called his physician, who came and examined him. Hugo remained in his home, receiving no food or hydration. Medical personnel told me that Hugo could hear us, even though he was not responding to us.

This was the worst seven days of my life. It was miserable for me, for Hugo, and for others to see his desired death stretched out for so long. I slept in his apartment during that week in order to be close to him.

If Hugo had been able to have a physician assist him in his dying, he could have died when and how he wanted, with dignity and without further complications and problems.

A program should be able to be developed so that people don't make the same bungling mistakes Hugo did. It is important for people in Hugo's situation to have the freedom of choice to end their life, without fear and without complications which make their dying process a nightmare.

Appendix 11.

V. DENIAL OF THE OPTION OF PHYSICIAN ASSISTANCE TO HASTEN DEATH FOR COMPETENT, TERMINALLY ILL PATIENTS HAS DEVASTATING CONSEQUENCES FOR SURVIVING FAMILY MEMBERS.

The states and other amici assert an interest in protecting from suicide the family members and loved ones of the

terminally ill.¹⁸ However, as the Ninth Circuit court below observed, "... witnessing a loved one suffer a slow and agonizing death as a result of state compulsion is more likely to harm than further the interests of the innocent third parties." Compassion in Dying, 79 F.3d at 827.

The family members express extreme sadness, anger, and guilt over their loved ones' loss of dignity and loss of control over their own lives, resulting from laws prohibiting physician assistance in dying. Others decry a cruel legal system which legislates against the abstract notion of "suicide" rather than addressing the reality of the pain, suffering, and loss of personal autonomy and dignity of terminally ill, competent patients. This law leaves family members angry and frustrated that they are unable to obtain comfort for the loved one at his or her time of greatest need.

I felt very guilty then, and feel guilty now, about dad's terrible death. I feel guilty that he died in so much pain and with no dignity left. The doctor had the means to give him a gentle, painless death. I have been left with frustration, anger, regret, and sadness....

Declaration of Gail Bereny (App. 9).

It was a very lonely death. That's the one thing I will never get over. My mother came from out-of-state to be with me for a period of time as she was concerned for my emotional health. I was in therapy for six months.

Declaration of Steve Knipp (App. 14).

¹⁸See Compassion in Dying, 79 F.3d at 816, for discussion of State of Washington's arguments in this regard; also, see Amicus Curiae Brief of Nat'l Right to Life Committee, Inc., p. 26, which argues that children "may be more profoundly affected by suicide than by other cases leading to the death of a parent." This is undoubtedly true for ordinary suicides, but the statement hardly applies to suffering parents at the end of their lives.

My mother's terminal illness was awful for me because I was very close to her. I had nightmares for weeks prior to her death. She was desperate, and in spite of my being a nurse, I felt helpless....

Declaration of Leanne Gallison (App. 3).

The Ninth Circuit decision voiced "serious doubts that the terms 'suicide' and 'assisted suicide' are appropriate legal descriptions of the specific conduct at issue here." Compassion in Dying, 79 F.3d at 802. For this reason, we frequently use in this brief the term "physician-assisted dying" or "hastened death" rather than "suicide." Jinny Tesik, who supported the controlled dying of her 76-year-old father, suffering from terminal emphysema, compares her father's act with other suicides:

My 39 year old husband committed suicide violently ten years ago by shooting himself in the head. That is the kind of suicide that leaves the legacy of guilt, anger, and unanswered questions. That kind of suicide devastates and destroys those left behind.

After 12 years of working in hospice and as a grief counselor, I have heard far too many cases of others like my father who chose to be in control of their deaths. For those who choose their own death in their own time, let it be peaceful, loving and legal, not shattered by violence and shame.

Appendix 15.

VI. THERE IS NO MEANINGFUL DISTINCTION FOR THE PATIENTS AND SURVIVING FAMILY MEMBERS BETWEEN A PHYSICIAN'S ASSISTANCE IN HASTENING DEATH AND A PHYSICIAN'S WITHDRAWAL OF LIFE SUPPORT.

A. The Deceased Loved Ones of the Amicus Were Dying of Terminal Illnesses and Suffering in the Same Way that Terminally Ill People with Life Support Measures Suffer.

The experiences of the amicus demonstrate that the distinction in the laws between withdrawing or refusing life support measures, a form of medical intervention, and choosing other forms of physician assistance to hasten the death of a terminally ill patient is meaningless for both the patient and the family. The patients who seek physician assistance to prescribe medication and those who seek physician assistance for withdrawal of life-sustaining treatment to hasten death are similarly situated. In both cases, the patients are facing an inevitable death caused by a fatal disease and are suffering, often unbearably.

The patients described by the fifteen declarants all suffered from diseases for which "life support," such as a ventilator or respirator, was not at issue. But they suffered as much as patients on life support, they knew they were dying, and they had exhausted all efforts to save themselves. Like those patients who make the choice to accept and hasten their inevitable deaths by refusing or withdrawing life support, they too wanted to end their suffering. Because of state statutes, they were denied the option to end their suffering with dignity and the comfort of their families.

B. The Legislatures' Distinctions Between the Refusal or Withdrawal of Life Support to Hasten Death and the Acceptance of Other Forms of Physicians' Assistance to Hasten Death is Not Rational.

The distinction in the law between withdrawal of life support and physician-assisted suicide makes no sense to those who are suffering while dying or to the families and loved ones who watch them suffer. It is not legally sufficient to say that because the state legislatures treat these actions as different, that they are in fact different. The Second Circuit accurately concluded that the withdrawal or refusal of life support is a form of assisted hastening of death and the two classes of patients should be treated equally. The Court explained:

Withdrawal of life support requires physicians or those acting at their direction physically to remove equipment and, often, to administer palliative drugs which may themselves contribute to death. The ending of life by these means is nothing more nor less than assisted suicide. It simply cannot be said that those mentally competent, terminally-ill persons who seek to hasten death but whose treatment does not include life support are treated equally.

Quill v. Vacco, 80 F.3d at 729.

The irrational nature of the distinction between the two classes of people is demonstrated by the drastic actions patients sometimes take to "legally" end their suffering. Jeff Halsey explains his partner Danial Danzer's struggle with AIDS:

My partner Danial Danzer's biggest fear was that of losing his mind. He wanted to die before he lost his mind.

Danial had reached the final stages of AIDS. He sought help with his problems from the medical community but didn't receive any. So when he felt his mind was leaving him, he opted for a unique solution to

his problem, that being withholding his insulin and letting himself die of insulin shock. It was a very long five days of convulsions, dementia, violent outbreaks, and a total loss of self-dignity.

I feel that had there been a way for him to end his life peacefully, that he would have opted to do so. Danial was lucky in that he had a way to deliver himself--by withholding his insulin. Most people are not that lucky. Most people must suffer even more than Danial suffered.

Appendix 7.

It is ironic that Danzer could legally withhold medication, such as insulin, but could not legally have a more painless way to hasten his death and maintain his dignity. Under Petitioners' rationale, Danzer's death was not legally "suicide" because the death was "unintentional," "inactive," and "natural," since Danzer died from diabetes and insulin shock. Washington Petitioners' Br. at 31 and New York Petitioners' Br. at 15-19. Clearly, Danzer's death was intended and he very actively sought death. How "natural" is it to die of convulsions and dementia? Similarly, how "natural" is death by starvation and dehydration, or an induced coma, both legal in Washington and New York states? The Second Circuit concluded these deaths are no more "natural" than a doctor prescribing medication to hasten death. Quill, 80 F.3d at 729.

VII. CONCLUSION

As the experiences of the fifteen show, many people are determined to control the dying process when faced with a debilitating terminal illness. This Court cannot stop the terminally ill from hastening their deaths--it does happen and will continue to happen as long as human beings have free

will.¹⁹ The decision for this Court is how hastened dying for the adult terminally ill should occur: Will it be acts of violence taken alone? Will it be untrained family members compelled to assist in secrecy and fear? Or will it be medically-trained personnel evaluating and assisting, in the open, according to legal guidelines? Amicus urges the Court to recognize, as the Second and en banc Ninth Circuit Courts did, that legal guidelines can be established so that the state can protect its legitimate interests without substantially infringing upon the constitutional rights of those competent, terminally ill adults who choose to end their suffering and hasten death.

Respectfully submitted,

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December 5, 1996.

¹⁹T. Quill, supra, at 199 ("Doctors, patients, and their families are engaged in negotiated deaths every day in every community in the United States."). With AIDS, the number of end-of-life suicides has increased dramatically. G. Kolata, AIDS Patients Seek Solace in Suicide But Many Risk Added Pain in Failure, N.Y. Times, June 14, 1994, at C1.

PERSONAL DECLARATION OF ROBERTA LAU

My name is Roberta Lau. My address is 9586 Silver Creek Lane NW, Bremerton, Washington 98311. My date of birth is October 31, 1928.

I prepare this declaration to support the position of Compassion in Dying in the case of Compassion in Dying vs. State of Washington.

My husband of 42 years, Richard A. Lau, died on October 12, 1995. My husband's desire and intent always was to find the means to hasten his own death when his physical condition was no longer bearable. He died after taking a sufficient supply of drugs prescribed by a physician that took a long search and numerous inquiries to locate.

Richard had been battling lung cancer for two years before he died. The cancer had metastasized from his lungs to his thigh bone, hip, arm, neck and head. His body had become a skeleton and his pain and suffering were worse. He decided it was time to fulfill his wish of assistance in dying. I was always aware of this intention and in total agreement and understanding.

Approximately three weeks prior to Richard's death, he was examined by an independent physician, not his treating physician. This physician verified that Richard was mentally competent, not depressed, and fully aware of the consequence of his decisions. The physician determined that Richard's condition was terminal and that he had no more than one to two months to live. He verified that Richard had lost 62 pounds in the last 15 months and had documented metastases.

Richard decided that he wished to die on Thursday, October 12, 1995. A nurse, my adult daughter, and two trained volunteers from Compassion in Dying were present with him. Everyone checked with Richard to see if he had

changed his decision. He was clear and adamant in his determination to proceed.

Richard was helped with personal care matters, smoked a cigarette and visited with those present. He then personally took the medications. He was very relaxed and at peace and thankfully welcomed his liberation. He always worried so much about finding this assistance and it was a blessing when we did. We did not believe in prolonging suffering needlessly.

At the end, his death at home was very calm and peaceful. I supported him all the way.

I believe all terminal and suffering persons should be able to legally seek supervised and regulated assistance in dying, if that is their wish. Prolonging suffering needlessly is inhumane.

I hereby declare under penalty of perjury under the laws of the State of Washington and of the United States that the above statement is true and correct.

Dated: November 13, 1996

Place of execution: Bremerton, Washington.

/s/
Roberta Lau

PERSONAL DECLARATION OF PATSY McLAUGHLIN McGEORGE

My name is Patsy M. McGeorge (a.k.a. Patsy A. McLaughlin, Ph.D.). My address is 1760 Parson Creek Road, Sedro Woolley, WA 98284-9620. My date of birth is May 27, 1932.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

My husband of twenty-five years, Emanuel J. ("Mac") McGeorge, had terminal cancer involving the spine, lungs and lymphatic system. But terminal cancer is cited only as "other significant condition" to his cause of death on the death certificate. The certificate reads: "Death due to or as a consequence of: Massive trauma to head — self-inflicted (sic) gun shot wound-shotgun."

Mac was diagnosed with cancer in November of 1994. Because he was 72 years of age, he rejected massive chemotherapy and radiation and asked just for drugs to ease his then acute pain. For a man who rarely took even aspirin, the nausea, dizziness, and other side effects of simply increasingly higher levels of pain medication served to reaffirm for him the soundness of his decision.

During late spring of 1995, he broached the subject of suicide. It was not the first time suicide had been mentioned, but this time he was quite serious. He told me of his great concern for becoming incapacitated, or so ill that he would either be hospitalized or would not, for some other reason, be able to govern his own destiny. He was relieved to have my assurance that he would never be hospitalized against his wishes, and that I would respect and support any decision he made about ending his own life. Mac also brought up the possibility of assisted suicide with his doctor, but while his doctor was understanding, he was not supportive.

By October, Mac had already surpassed his predicted nine-month life expectancy, but the cancer was taking its toll. He had gone from a man of 190 pounds of muscle, exceptional strength, and superior stamina to a "145 pound weakling." What stamina remained came from sheer will power and intestinal fortitude, yet he managed to put his shop in order, teach me his special techniques in the darkroom and continue his daily routines. By January of 1996, he was able to eat very little; his weight loss was becoming extreme. The principal spinal tumor had grown so large that he referred to his appearance as that of the "Hunchback of Notre Dame." He could only sleep on his side, and despite 800 mg. of morphine a day and Roxicet every two hours, his pain was so extreme that sleep came only in short intervals. He could lie down for only an hour or two at a time. He struggled through January, but by the first of February, he couldn't take much more. We were referred to Hospice, an outstanding group that does a great deal to ease the pain and suffering of the terminally ill, but regrettably cannot assist in ending that suffering. With a subcutaneous pump to assure a continuous morphine flow and additional medication, Hospice nurses were able to provide Mac his first full night's sleep in months. But Mac did not want to be a drugged vegetable. Following an almost 24 hour drugged stupor, he decided that was not the answer.

On the morning of February 9, 1996, he had made up his mind. He said he felt as if he had just been through Ray Milan's "Lost Weekend," and told me that with such a high level of pain medication he would soon be a vegetable, unable to think, do for himself, or control his own destiny -- an intolerable situation. After a brief and very personal conversation, he gave me the note he had carried for months, attesting to the fact that his decision was his own; kissed me goodbye; went into the front yard; put a shotgun in his mouth and pulled the trigger. Since a peaceful death was not available, this was his way to insure death with the dignity he valued so highly. Two months ago I was emotionally wrenched by finding a portion of his upper dental plate 50 feet from the site of his death -- a testament to the violent alternative he was forced to choose.

Mac was not depressed -- the overwhelming pain or alternative of a drug stupor were simply unacceptable to him. Mac honestly believed he, with my support, had the right and the responsibility to control his own destiny.

To say that I miss him would be the understatement of the century. But I esteem his courage, his conviction, and his integrity. I am thankful that he loved me enough to share his most personal emotions. I wish I could have been with him at the end, but he said no, "it will be messy."

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above mentioned is true and correct.

Signed: /s/

Dated: September 27, 1996

Place of execution: Sedro Woolley, WA

**PERSONAL DECLARATION OF
LEANNE GALLISON**

My name is Leanne Gallison. My address is 7538 - 14th Ave. N.E., Seattle, Washington 98115. My date of birth is February 2, 1952.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

My mother, B.J. Olsen, was diagnosed with cancer in August, 1993 at the age of 69. She was given six months to two years to live. In September she started chemotherapy which helped a little. Later, additional chemotherapy didn't help. Sharp pains developed in her chest and her spine. Shortness of breath increased. Chemotherapy made her horribly ill, nauseated around the clock. The doctor ordered radiation therapy to ease the pain. At this time, she began to have seizures. Tumors were discovered in her brain. Radiation was added to treat her brain but this resulted in my mother becoming completely flattened with no stamina, no energy. The doctor predicted that within a month or so, she would begin to feel better, she would regain her strength, and perhaps she and her family could go on a vacation. She never got better. She couldn't even get out of the house.

My mother had been a single woman for 30 years. She was left fatherless when she was 2 and abandoned by her husband when her children were still in school. She built her own successful business, traveled in Africa and the Middle East, and put us all through graduate school. She even volunteered many hours each week at a clinic for disabled children. She was petite, beautiful, and determined. She was not about to give up control over her destiny.

As the pain and sleeplessness increased, and in her housebound state, she began to think about how she could end her life with grace and dignity. The last thing she wanted was to be completely dependent on her family. She asked her doctor for

some barbiturates to "help her sleep." When he realized why she wanted them, he flatly refused. She was terribly discouraged. She had to change doctors to seek help. On her bad days she would ask me, "How am I going to get out of here?" And, "I want to go, and I want to go NOW!" She weighed about 60 pounds. One evening, with her children by her side, she consumed some antinausea medication in mashed fruit, and later swallowed all of the morphine she had left. She fell peacefully asleep. She stopped breathing in two hours.

My mother's terminal illness was awful for me because I was very close to her. I had nightmares for weeks prior to her death. She was desperate, and in spite of my being a nurse, I felt helpless. I just don't see how an assisted suicide is dangerous if it is regulated. It is like a Living Will; I just don't see anything wrong in it.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Date: July 29, 1994

Place of execution: Seattle, Washington

Signature: _____/s/

Leanne Gallison

PERSONAL DECLARATION OF KAY BECK

My name is Kay Beck. My address is 5024 Nicklas Place N.E., Seattle, Wa. 98105. My date of birth is Jan. 18, 1936.

I prepared this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

On Nov. 11, 1991, I helped my husband, Jack, end his life. In the terminal stages of esophogical cancer, he faced paralysis within days. Paralysis for Jack was a fate worse than death. Always an extremely active, rational, self reliant, responsible person, he fought for his life as long as he could. When it became apparent the end was near our plan was that he would end his life with sleeping pills, as difficult and isolating as that proved to be. On the 10th of November he wrote his suicide note and we prepared the drugs. Jack died the next morning of a drug overdose in the room he loved with me but not our children by his side.

The effect of the law against assisted suicide is to create a conspiracy of silence around the terminally ill at their time of ultimate loss and greatest need. It causes isolation, anguish, desperate acts, and prolonged suffering. I do not wish to go to jail but who is to speak for those who have died alone or those who fear prosecution if I do not.

To classify me as a criminal because I refused to leave my husband's side at his time of greatest loss I find unconscionable. The law against assisted suicide is a travesty, a violation of my rights as an adult. The judicial system must find this law unconstitutional or be prepared to put people like me in jail.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: August 2, 1994

Place of execution: Seattle, Washington

_____/s/

**PERSONAL DECLARATION OF
ELVIN O. SINNARD**

My name is Elvin O. Sinnard. My address is 23 Beckett, Lake Oswego, Oregon 97035. My date of birth is May 30, 1917.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

Sara and I were married for 49 years. She suffered from a very painful heart condition the last eleven years of her life. Two open heart surgeries, several trips across the United States to specialty clinics, and very competent care from her cardiologist failed to relieve the debilitating pain. Finally life became unbearable. She could not even talk to me, her children, or her friends for five minutes without triggering the terrible pain. She wanted to die but we did not know how to do it. We could not ask her doctors since one practiced in a Catholic hospital and the other had a national reputation that would have been destroyed had he broken the law to help her.

She feared over-the counter pills, hearing of all the cases where the person woke up a vegetable. Carbon monoxide was out since she wanted the dignity of dying in her own bed, surrounded by the things she loved. We finally learned of the plastic bag method. On the day of her decision, I was with her up to the point of placing the bag over her head and she said, "Elvin, you must now go to the office because you cannot be implicated in this."

She had to die alone. I was denied my right to be with her when she died. This is not right.

I was taken to the police headquarters and interrogated for two hours attempting to establish a direct action on my part to the suicide. The detectives were polite and seemed sympathetic but they said, "Even though we might agree with your action, we would have to recommend indictment if we could establish a direct action on your part to the suicide. It's the law."

And, this is not right. My act was a loving act, not a criminal act.

A person has the right to control the conditions of their death as much as they have the right to control the conditions of their living.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: August 2, 1994

Place of execution: Portland, Oregon 97035

/s/
Elvin O. Sinnard

PERSONAL DECLARATION OF PATTY ROSEN

My name is Patty Rosen. My address is 60734 Bristol Way, Bend, OR 97702.

I prepare this Declaration to support the position of Compassion in Dying in the case of Compassion in Dying v. State of Washington.

For as long as I can remember I have believed that any person suffering from a terminal or debilitating illness has the right to end their life when they choose. My religious and moral beliefs have never interfered with my ability to listen and empathize as patients have pleaded their case to die. I have even made pacts with friends who feel as I do, agreeing that if the need should ever arise, we will help each other die. I have also talked with my four children about the right to choose, encouraging them to think about it, discuss it, and come to their own conclusions. Then, in one short year the subject of assisting the death of a terminally ill person was no longer clinical and abstract. The person dying was my 25 year old daughter and she asked me to help her die, and I did. I didn't have to assist Jody's death. Jody was still capable of giving herself a fatal dose of medication. But Jody didn't want to die alone. She wanted me there with her, to comfort her, and to make sure she died.

Bone cancer. Invasive bone cancer. Literally, from her head to her toes she was filled with bone cancer. The failure to do follow-up on an obvious, thyroid goiter, first diagnosed when she was 18, had led her, over a five year span, to death's door. Jody was devastated. Angry that she was dying, and furious that it could have been prevented, she asked me to keep her at home and care for her. She was also afraid that if hospitalized she would lose her autonomy. She had been trained as a nurse's aid and had witnessed, first hand, how the rights of patients were violated and didn't want that to happen to her. I was greatly relieved she trusted me so completely because I was frantic to take her in my arms and somehow "make it better." But that never happened. Bedridden, Jody was trapped in a body that barely worked. She slept, medicated, 23 out of 24 hours. Even then her face reflected the

pain she was constantly enduring. She was also losing her sight, tolerated painful procedures for total bowel obstruction, and shuddered with pain if anyone so much as touched her skin because of the tumors that were barely under the surface. And, her bones. Bones that were slowly "burning" ("it feels like hot molten lava inside of me") away with cancer. Daily she let me feel her despair. Daily, her eyes dulled by medication, the question would come: "Mom, how long can you watch me suffer?" "Mom, please help me."

What could I say? Was I going to tell her she would get better? That this was temporary? What reason could I give her not to die when she was already dying? She was dying, she knew it, and she was ready to die now. Rational, calm, ready. However, it was illegal for me to assist and she knew it. "I should be able to talk with my doctor and plan this, not ask my Mom" "Mom, what if you go to prison?" "What will happen to you?" Worry made her small face with the sunken eyes of the near death take on an incredibly distressed look. Wasn't it enough that she was dying without having to worry about me? In my most convincing style I reassured her. Her trust and faith in me were humbling and I was determined not to let her continue to suffer because of what might happen to me. I found the idea absurd.

Finally, four months after her request, choking on my tears, I said, "Jody, I'm ready." A look of relief came over her face. She was, in fact, almost giddy with relief. Quietly, softly she said, "Oh Mom, thank you. This is one of the happiest days for me. I don't have to wake up in this body again." Those words, to this day, make me sob with my own pain of loss. I miss her so much.

And then it was time. Jody calmly swallowed everything I could give her, took a few sips of water, kissed me, "See you later Mom," closed her eyes and went to sleep. I went into a pure panic. What if I failed? What if she regained consciousness? She would be even worse off. But more than that, I would have failed her. I began giving her all the I.V. medications I could pump into her stilled body. I moaned, sobbed, prayed, and kept pushing the drugs. I was as desperate as I have ever been. My mind started playing tricks on me. Looking at her I would suddenly think I had

made a mistake, that she was not terminally ill, but was getting better. I fought the impulse to reach for her, to shake her awake, or to pick up the phone and call for help. I forced myself to stay in the naked reality of the situation, to look at my daughter's withered frame, her cadaver-like skull, and to continue my vigil.

Ten hours after we had started the process came the silence. She had finally stopped breathing. The year and a half of pain, suffering, rage, and hopelessness had ended. I climbed into her bed, gathered her still body into my arms, finally able to hold her without hurting her. Stroking her hair, rocking her gently, I surrender to my grief. A brave and wise young woman, Jody Lynn Grape, age 26, died October 30th, 1986, at 1:30 p.m.

I have never felt guilt or remorse for assisting Jody's passing. It was the ultimate act of love a mother could do for her suffering, dying, child. I am grateful that she trusted me enough to ask, made me feel her anguish, and included me in her dying. Her request was a rational request. She made her decision independently, following her heart and spiritual belief.

The day following Jody's death I rushed to the therapist office seeking any wisdom and comfort she could offer. "Patty, I have Jody's permission to tell you what she said at our last meeting and I want to share it with you now." Leaning forward, taking my hand, she told me Jody's last request: "please don't let anything happen to my Mom."

I hereby declare under penalty of perjury under the laws of the State of Oregon and the United States that the above statement is true and correct.

Dated: November 2, 1996

Place of execution: Bend, Oregon

/s/
Patty Rosen

**PERSONAL DECLARATION OF
JEFF (JOSEPH) HALSEY**

My name is Jeff Halsey. My address is 1000 - 8th Avenue, #A 806, Seattle, Washington 98104. My date of birth is April 5, 1958.

I prepared this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

My partner Danial Danzer's biggest fear was that of losing his mind. He wanted to die before he lost his mind.

Danial had reached the final stages of AIDS. He sought help with his problems from the medical community but didn't receive any. So when he felt his mind was leaving him, he opted for a unique solution to his problem, that being withholding his insulin and letting himself die of insulin shock. It was a very long five days of convulsions, dementia, violent outbreaks, and a total loss of self-dignity.

I feel that had there been a way for him to end his life peacefully, that he would have opted to do so. Danial was lucky in that he had a way to deliver himself--by withholding his insulin. Most people are not that lucky. Most people must suffer even more than Danial suffered.

I couldn't wait for him to die so that he would quit suffering and I would quit suffering. I feel that Danial and I were both robbed of important, quality time by his slow and painful death. He might have been spared some of his greatest pain and retained his dignity if he and his physician had received help from a compassionate code of laws.

He was only 34 years old when he died on June 10, 1994.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: August 1, 1994

Place of execution: Seattle, Washington

_____/s/
Jeff Halsey

PERSONAL DECLARATION OF TANIA BLOOM

My name is Tania Bloom. My address is 3110 C Portage Bay Place E., Seattle, Washington 98102. My date of birth is September 28, 1936.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

In 1989, my father was dying of lung cancer and was in excruciating pain. His doctor would not provide pain medication other than Tylenol saying that to do so "would not be medically advisable." Father remained at home and in spite of being hooked up to oxygen, he struggled to breathe. We had access to morphine and hinted to him that we could get it for him if he wanted it. However, he refused because he knew it was illegal to assist in a suicide.

When he realized that my family was going to be away for a day, he wrote us a beautiful letter, went down to his basement, and shot himself with his 12-gauge shotgun. He was 84.

My youngest daughter did not have the benefit of having her own father during her growing up years so my father became her surrogate father. They became extremely close. The loss of her grandfather was devastating for her. The nature of Dad's suicide added to this tragedy. This was a brutal and awful experience for my children and for me. I felt a great deal of loss, anger, and remorse about a system that would not allow my father to die gracefully and with dignity.

My son-in-law then had the unfortunate and unpleasant task of cleaning my father's splattered brains off the basement walls.

Physician assisted suicide should be a rational choice and a reassurance for people. Physician assisted suicide can have safeguards and planning so that it wouldn't be an impulsive,

irrational act and one of unnecessary violence such as that of my Dad's.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: July 28, 1994

Place of execution: Seattle, Washington

_____/s/
Tania L. Bloom

PERSONAL DECLARATION OF GAIL BERENY

My name is Gail Bereny. My address is 2360 - 43rd Ave. E., #307, Seattle, Washington 98112. My date of birth is _____.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

Several years ago, my 80 year old father was diagnosed as having terminal abdominal cancer. He went to his doctor with two requests, (1) not to prolong things, and, (2) to keep him as pain free as possible. His doctor agreed. However when time came, the doctor did neither. And so my father, to whom dignity was very important, lay dying, diapered, moaning in pain, begging to die. I called the doctor's office, crying, begging him to relieve Dad's pain. He refused, saying morphine could kill him.

My father's brother, my uncle, has a weak heart. He was so distraught that we were frightened for him. Dad's friends did what they could to give him their love and support. His best friend, a retired cardiologist, was dismayed and angered at the physician's lack of help and compassion. Dad would have been spared at least a week or two, the worst part of his illness.

I felt very guilty then, and feel guilty now, about Dad's terrible death. I feel guilty that he died in so much pain and with no dignity left. The doctor had the means to give him a gentle, painless death. I have been left with frustration, anger, regret, and sadness. He had been a very good father.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: July 28, 1994

Place of execution: Seattle, Washington

_____/s/
Gail Bereny

**PERSONAL DECLARATION OF
DOROTHY B. HOOGSTRAAT**

My name is Dorothy E. Hoogstraat. My address is Beaverton Oregon. My date of birth is February 9, 1921.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

My husband, Emerson E. Hoogstraat, a retired Professor of Finance, from Portland State University, died on March 25, 1995 of prostate cancer that had spread to the bones. He had been diagnosed in March of 1993 as having prostate cancer. We obtained a second opinion and he decided to have surgical removal. The physician did not complete the surgery as the cancer had spread to the lymph nodes. He then had forty radiation therapy treatments and after a few months of relatively pain free existence he again began having problems. In late 1993 he had edema in the right leg from hip to foot, caused by tumors pressing on the blood vessels in the groin and at the suggestion of his urologist had an orchiectomy, which we hoped would relieve the swelling in his leg and slow the spreading of the cancer. He was relatively comfortable until June of 1994 when a series of new problems developed. Following further diagnostic procedures it was ascertained that the cancer had spread to his ribs, spine and right femur. He was in considerable pain when walking, sitting or lying in bed. He had been given medication for the pain prior to this time but it now became a necessity if he was to have any measure of relief. His ribs gradually broke, and as he said to me many times, he could feel the broken edges of the bones rub together as he would sit or attempt to arise from the bed. He was in unbearable pain. He was an extremely intelligent, courageous and dignified man and he did not wish to suffer unbearable pain when there was no hope of recovery from this condition. He would very much like to have gone to sleep in his own bed and not had to suffer further. He felt that it was his right to say when he had suffered enough. He "lived" at least two months after he would have preferred not to. The physicians and Hospice people were constantly changing medications and attempting to make him as

comfortable as possible - which in his condition was an impossibility. It was a twenty-four hour a day caregiving situation and he still suffered unbearably. He remained at home until his death.

He had been very active in promoting Measure 16 - we both had - and he was sad that he was unable to receive help when he so desperately wished and needed it!

We had been married for forty-seven years and shared a lifetime together, and truly, watching him suffer and being unable to do anything for him that would relieve his pain, was for me devastating.

I do not believe it is suicide when a person is terminally-ill and there is no relief for the pain and suffering. Quality of life is very important.

I do not believe that God intended for people to suffer in this manner. We are more compassionate with our pets than we are with our dearly loved family members.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above are true and accurate.

Dated: October 30, 1996

Place of execution: Beaverton, Oregon 97005

/s/
Dorothy B. Hoogstraat

PERSONAL DECLARATION OF GÖSTA PEARSON

My name is Gösta Pearson. My address is 7432 Latona Avenue NE, Seattle, Washington 98115. My date of birth is June 29, 1925.

I prepare this declaration to support the position of Compassion in Dying in the case of Compassion in Dying v. State of Washington.

In 1991, I was with my very good friend, Hugo Vila, when he died. Hugo moved to the United States from Cuba and became an American citizen. He had no family members in the United States and I became a surrogate father to him.

I spent the last few weeks of Hugo's life with him, as he slowly but steadily was dying from AIDS. Hugo remained living in his apartment and I spent several hours each day helping take care of him. At the end, he could not walk and could only use one of his arms. I think he had suffered a stroke which paralyzed one side of his body. He had a catheter attached to him and he was unable to control his bowel movements. Hugo was very upset about messing himself in bed, since he had always been a meticulous person. I had to pick Hugo up, put him in a wheelchair, take him to the bathroom and lift him up and put him in the bathtub, in order to clean him. Hugo had lost a lot of weight and was virtually skin and bones the last few weeks of his life. Hugo needed help in eating and in doing virtually everything in order to continue living.

Hugo told me that he was very concerned about his loss of dignity and ability to care for himself. He was mentally alert and not depressed during this period. Medication controlled his pain, but the loss of dignity was horrible to him. He told me that he had had a full life and he wanted to end his life with dignity, realizing that things were only going to get worse as his AIDS progressed.

On June 20, 1991, Hugo told me that he had decided to take his own life with some pills he had stockpiled. He told me I did not have to stay with him, but I wanted to be by his side. He

prepared two glasses of medication and told me he was going to drink one glass and then follow with the other. He then drank all of one of the glasses. He then told me that "that didn't taste very good--will you get me a spoon of pudding from the kitchen". I did and he said "that's better." Then he reached for the second glass and passed out before taking the second glass of medication.

Hugo was in a coma for the next several days. I immediately called his physician, who came and examined him. Hugo remained in his home, receiving no food or hydration. Medical personnel told me that Hugo could hear us, even though he was not responding to us.

This was the worst seven days of my life. It was miserable for me, for Hugo, and for others to see his desired death stretched out for so long. I slept in his apartment during that week in order to be close to him.

If Hugo had been able to have a physician assist him in his dying, he could have died when and how he wanted, with dignity and without further complications and problems.

A program should be able to be developed so that people don't make the same bungling mistakes Hugo did. It is important for people in Hugo's situation to have the freedom of choice to end their life, without fear and without complications which make their dying process a nightmare.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above mentioned is true and correct.

Signed: /s/

Dated: November 21, 1996

Place of execution: Seattle, Washington

DECLARATION OF KEITH WILLIAM GREEN

1. My name is Keith William Green and I live in Los Angeles, California.
2. I prepare this declaration to support the position of Compassion in Dying in the case of Compassion in Dying vs. State of Washington.
3. I was arrested on December 4, 1995 in West Los Angeles after my lover of eight years committed suicide. Within hours of the arrest, I was charged with murder under California Penal Code section 187 and felony assisted suicide under California Penal Code section 401. I was a defendant in the matter entitled People v. Keith William Green, Los Angeles Municipal Court, West Los Angeles District, Case Number SA023990.
4. In 1991, my lover tested positive for the human immunodeficiency virus ("HIV") and was diagnosed with full blown AIDS in early 1994. He was in the advanced final stages of the disease at the time of his demise. With his immune system entirely compromised he suffered from a panoply of debilitating diseases which were incurable. During that time, I was his primary caregiver, constant companion and, more often than not, his sole source of emotional support.
5. Throughout the last year of his life, he suffered from a variety of ailments including Cytomegalovirus ("CMV") retinitis, an especially frightening condition in which the virus attacks the optic nerve. It had rendered him virtually blind in one eye and was threatening to cause total blindness in both. He suffered from bacterial infections that caused chronic night sweats, fever, chills, malaise, nausea, diarrhea and pain. He had been treated for CMV Colitis by daily intravenous infusions of Foscavir, and suffered from neuropathy, the primary symptom of which is pain throughout the extremities. He could not drive, he could not work, he could not live without pain and anxiety, and he had lost control of most bodily functions.

6. Having witnessed the deaths of many of our friends from AIDS, he was aware of his fate. He unsuccessfully attempted suicide in July 1995 by the ingestion of drugs that he had quietly stockpiled. After several hours of distress and seizure it became apparent that his attempt was flawed so I called 911. Because of his attempt at suicide, he was confined by restraints to a bed at the UCLA Medical Center. It was a horrible experience for the both of us. In the end, the failed attempt only served to increase his sense of helplessness, humiliation and resolve to die on his own terms.

7. He left numerous notarized suicide notes indicating that it was his desire to end his life, that he had made the decision on his own, that the reason was the lack of quality in his life, and he even promised to sue anyone who attempted to revive him.

8. In late November, 1995, he was hospitalized again, with his doctors encouraging surgery on the one eye from which he still had some sight. Fearful that the surgery would render him totally blind, he refused the procedure and left the hospital against medical advice on or about December 1, 1995.

9. On Monday, December 4, 1995, he told me that this would be our last morning together. He went into the bathroom where he remained for a considerable period of time. I learned afterwards that he had been taking a large and lethal quantity of chlorhydrate and seconal. Because his prior attempt at suicide by pills had failed, he had planned to use carbon monoxide as a back up.

10. After a tearful goodbye, he went to the garage where he had set up his car in a manner as to facilitate the ingestion of carbon monoxide. Once seated in the driver's side of his car, he then told me that it was time for me to leave.

11. I left our home and began to drive aimlessly, but was haunted by something he had asked me to promise again and again during our last year together. He had repeatedly asked me to promise him that I would not leave him as his condition worsened. I, in turn, made a commitment that I would indeed never leave him. Unable to silence the memories of these words, I returned to our

home within five to ten minutes of leaving. I went to the garage which was then filled with smoke and stayed with him in the car.

12. Given the circumstances, his decision to commit suicide could hardly be described as anything but a rational choice. Indeed, it was his fundamental natural right. In the same way, it was my right to be by his side, not only to honor the promise made, but also to honor our love and admiration for each other.

13. After having been prosecuted for a felony for six months, the charges were finally dismissed on June 4, 1996. Though released on my own recognizance within a few days of having been arrested, the terms and conditions of my release precluded me from being at his funeral in his home town in Texas as I was not allowed to leave California.

14. I am the one person who stayed by him while everyone else abandoned him as his condition worsened. I am the one person whose love was sufficient to withstand the horrible strain caused by his progressive illness. Despite all that, I am also the one person who was charged with a felony and faced a prison term of up to three years. In the end, the charges that were filed against me were the last thing that he would have ever wanted to happen.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of November, 1996, at West Hollywood, California.

_____/s/
KEITH WILLIAM GREEN

DECLARATION OF WILLIAM F. MEYER III

My name is William F. Meyer III. My address is 2 Teragram Place, Westport, Connecticut 06880. My date of birth is April 27, 1929.

I prepare this Declaration to support the position of Compassion in Dying in the case of Compassion in Dying v. State of Washington.

In 1991, my father, William F. Meyer Jr., who was 88 years old and had experienced five cancer operations, was in rapidly failing health. The cancer that had begun in his colon had spread to his lungs. He was losing weight and was being eaten away. His doctor said he had only a few months to live.

My father approached me with the idea of taking his life, a suggestion that I immediately rejected since he was my best friend and advisor. For the next several weeks during weekly visits and telephone conversations, I tried to change his mind. After discussing my father's decision with several close friends, plus my minister, who is my spiritual leader (and who talked to my father), I reluctantly agreed to my father's wish. He took many of his close friends, plus selected relatives, into his confidence concerning his intention, and he even prepared a letter which I was to mail to 80 friends and relatives after he had taken his life. The letter said "I happily decided that it was more kind and thoughtful of me to terminate my life before I reached a decadent condition of helplessness."

After my father and I met with my father's doctor of 25 years, my father decided he would use the procedure featured in the book Final Exit, taking 12 sleeping pills and placing a plastic bag over his head.

My father's first attempt at this action failed when his reflex action, which comes from the feeling of suffocating, caused him to pull off the plastic bag. When I returned to my father's home the next morning, he was awake and distressed that he was still alive.

My father consulted with his doctor and was advised that I could hold my father's hands so the reflex action would not remove the plastic bag. My father and I followed this procedure and he was able to end his life.

Since one of my father's last requests was that I tell his story, I joined the Hemlock Society and became a vocal spokesman for death with dignity. In the summer of 1994, I was interviewed for a story by Connecticut Magazine. After the story, I was arrested and charged by the police with second degree manslaughter. If convicted, I faced ten years in prison.

At a hearing in December, 1994, before a Superior Court judge in Hartford, Connecticut, two ministers and several friends spoke on my behalf. Numerous people, including eleven ministers and eighteen doctors, wrote to the judge to support me. Even though the District Attorney pleaded that my case go to trial, the judge stated that although I had broken the law, I was following my father's wishes, and the judge considered me an outstanding citizen. I was given two years "accelerated rehabilitation" (after two years, all charges are dropped, with no record).

I was and am still amazed at how many people relate stories of prolonged, painful suffering of relatives or friends. They called my story an act of courage and common sense. There is a legion of people who live with a "secret agony" over watching a loved one waste away.

From a religious standpoint my act of love for my father is consistent with my church's beliefs. As a most loyal and active member of the United Church of Christ, I concur with our statement, "We affirm individual freedom and responsibility to make choices in these matters."

I hereby declare under penalty of perjury of the laws of the State of Connecticut and the United States that the above statement is true and correct. Executed at Westport, Connecticut, on December 2, 1996.

/s/
William F. Meyer III

Appendix 13-2

PERSONAL DECLARATION OF STEVE KNIPP

My name is Steve Knipp. My address is 150 Melrose Ave. E., #102, Seattle, Washington 98102. My date of birth is May 28, 1962.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

My partner, Tom Andolina, was diagnosed with AIDS in February, 1990. His condition worsened to the point that he was homebound and in a great deal of pain. Pain medications were not working. Doctors would not prescribe medications to help him end his life so he was forced to stockpile medications until he had enough. He died on December 1, 1991, alone, because of fear of anyone stopping him if they were present.

We had planned on the time and the day. He was so wrapped up for so many weeks planning his exit that he was unable to enjoy what life he had left. He was very frustrated at how to commit suicide; he didn't know how. There was no way that we could find out how much medication he would need. We both struggled with it for months. He didn't want to do anything violent or painful. We didn't want him to commit suicide, but he was in too much pain and had become housebound. The quality of his life was severely diminished. He also had a fear that if he failed in his attempt, he would be resuscitated.

Because he was afraid of my reaction, he decided to do it alone. It was a terrible shock to wake up one morning and find him dead in the livingroom. He had been dead for eight hours. I was obviously devastated. We had been partners for ten years. Our friends were very upset that they couldn't be with him to say goodbye.

It was a very lonely death. That's the one thing I will never get over. My mother came from out-of-state to be with me for a

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period of time as she was concerned for my emotional health. I was in therapy for six months.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: July 31, 1994

Place of execution: Seattle, Washington

_____/s/_____
Steve Knipp

PERSONAL DECLARATION OF JINNY TESIK

My name is Jinny Tesik. My address is 3307 N.E. 125th, Seattle, Washington 98125. My date of birth is April 20, 1942.

I prepare this Declaration to support the position of the Appellees in the case of Compassion in Dying v. State of Washington.

In 1986, I took a leave of absence from my position on a Seattle Hospice Team to help my father care for his terminally ill wife (my stepmother) of 36 years. She died slowly and stoically from lung cancer. We were with her at home when she died. For over two years, Dad watched his handsome wife succumb to the ravages of the disease. He honored the choices she made in her care and treatment even though they wouldn't have been what he would have chosen for himself.

Unable to live alone due to his own battle with emphysema, Dad lived with me for the last two years of his life. He was adamant that he would not let his disease control him the way his wife's lung cancer controlled her. He intended to take his life while he still had his dignity, self-respect, and, above all, was still in control of his life. He made me promise that I would honor his choice. He threatened that if the means for him to take control of his death were not available, he would kill himself with a kitchen knife.

The emphysema progressed. Dad was tethered to 30 feet of oxygen tubing; he seldom left his bedroom. Breathing became more difficult and eating became a problem. His physician was totally opposed to providing the help Dad requested. One morning, he reminded me of my promise to help him. He discussed his plan rationally, non-emotionally. He was ready to die and needed my support. We raided the medicine cabinet and I was sent out to buy some vodka. We spent the day together. Toward evening, he asked me to leave the house and not return until very late. He did not want me to be implicated in any way in his suicide. Saying

goodbye to my dad was one of the saddest times of my life. And I had to go through that long night alone for I, in turn, could not implicate anyone else in the knowledge of my dad's death. He died in 1990 at the age of 76.

My 39 year old husband committed suicide violently ten years ago by shooting himself in the head. That is the kind of suicide that leaves the legacy of guilt, anger, and unanswered questions. That kind of suicide devastates and destroys those left behind.

After 12 years of working in hospice and as a grief counselor, I have heard far too many cases of others like my father who chose to be in control of their deaths. For those who choose their own death in their own time, let it be peaceful, loving and legal, not shattered by violence and shame.

I hereby declare under penalty of perjury of the laws of the State of Washington and the United States that the above statement is true and correct.

Dated: August 1, 1994

Place of execution: Seattle, Washington

_____/s/_____
Jinny Tesik